

REMARKS

Reconsideration and re-examination is respectfully requested in view of the above amendments and below remarks.

Rejections under 35 U.S.C. §102

Claims 1-6 were rejected under 35 U.S.C. §102(a) as being anticipated by Brzozowski (J. of Lightwave Technology article).

It is well known that a prima facie case is made out under 35 U.S.C. 102(a) if, within 1 year of the filing date, the invention, or an obvious variant thereof, is described in a "printed publication" whose authorship differs in any way from the inventive entity *unless it is stated within the publication itself that the publication is describing the applicant's work*. In re Katz, 687 F.2d 450, 215 USPQ 14 (CCPA 1982).

The Examiner had noted that under M.P.E.P. §2132.01, the rejection under 102(a) based on the above reference may be overcome by filing of affidavits made out by the other authors establishing that the relevant portion of the publication originated with, or were obtained from the applicant. The rejection can also be overcome by submission of a specific declaration by the applicant establishing that the article is describing applicant's own work.

Applicant submits herewith a signed affidavit from each of the inventors of this application, Lukasz Brozowski, Ted Sargent and Erik Johnson which includes a specific declaration that the article describes their own work.

As such, it is requested that the rejection be withdrawn and the claims be allowed.

Conclusion

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Applicants' Attorney at the number listed below so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

November 19, 2007  
Date

/Lindsay G. McGuinness/  
Lindsay G. McGuinness, Reg. No. 38,549  
Attorney/Agent for Applicant(s)  
McGuinness & Manaras LLP  
125 Nagog Park  
Acton, MA 01720  
(978) 264-6664

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